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Kenneth H. Abbott

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EXAMINER

CLOUD, JOIYA M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/894,642	Applicant(s) ABBOTT ET AL.	
	Examiner Joiya M. Cloud	Art Unit 2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21,66,67,71,74,75,77,78,82,174,175,181 and 184-191 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,66,67,71,74,75,77,78,82,174,175,181 and 184-191 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the communication filed on 08/19/2009.

21,66,67,71,74,75,77,78,82,174,175,181 and 184-191 are PENDING in this application.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/19/2009 has been entered.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claim limitation of exemplary claim 66 lacks proper antecedent basis in the specification (i.e. "interacting with the thin client, wearable computer, the interacting comprising providing information about the current state of the remote user to the thin client wearable compute rand receiving information about the current state of the remote user from the thin client wearable computer..."). It is advised by Examiner that Applicant indicate where the claimed subject matter is found in the specification.

Response to Arguments

A) Claim 66, as amended, clearly distinguishes over Jacobsen. As discussed above, Jacobsen describes processing physiological data at the soldier unit and then sending the processed data from the soldier unit to the leader/medic unit. By contrast, claim 66 is directed to a method for operating a user characterization system which specifically recites "interacting with the thin client wearable computer, the interacting comprising *providing information about the current state of the remote user to the thin client wearable computer.*" Because in Jacobsen the physiological data is processed at the soldier unit there is no reason for the leader/medic unit to return the physiological data back to the soldier unit. The leader/medic unit can merely send instructions to the soldier unit requesting updates of the physiological information. Accordingly, claim 66 patentably distinguishes over the prior art of record, such that the rejection of claim 66 under 35 U.S.C 102 should be withdrawn.

As to the above argument A), Examiner respectfully disagrees. Examiner notes that the claim merely requires "providing *information* about the current state of the remote user to the thin client wearable computer." There is no requirement as to *what* information of the remote user is provided. As acknowledged by Applicant, Jacobsen clearly teaches where a medic/leader unit "instructs the soldier unit to provide more frequent information about the physiological status of the soldier" Further, Jacobsen discloses that the feedback provided by sensors indicating "a threat to health of the soldier" is determined by the leader/medic unit and this *current state of the remote user*" results in a an instruction (information) about the current state of the user (threatened health), see col. 9, lines 11-19. Examiner submits that a person of ordinary skill in the art would recognize this instruction as information provided about the current state of the remote user. Moreover, Jacobsen also teaches conveying information

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regarding care given to a soldier to the soldier unit, where the information “regarding care given to a soldier” reads upon the broadly claimed language as recited in claim 66 (see col. 13, lines 38-45). Examiner suggest Applicant clearly define the suggested distinction over the prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 66, 67, 71, 72, 74, 75, 77, 78, 82, 174, 175, 181 and 184-191 are rejected under 35 U.S.C. 102(e) as being anticipated by **Jacobsen et al. (US Patent No. 6,198,394 B1)**.

As per claims 66, Jacobsen discloses a method for operating a user characterization system which executes on a computer separate from a remote user wearing a thin client wearable computer to provide information about a current state of the remote user of a thin client wearable computer (Figure 1 and col. 1, lines 35-53), the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes (col. 3, lines 35-50), state client modules to

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process values for the state attributes (col. 3, lines 35-50), and an intermediary module to facilitate exchange of state attribute values (col. 15, lines 52-col. 16, lines 1-22), the method comprising:

under control of each SSM of the user characterization system, gathering information about the current state of the remote user wirelessly from the thin client wearable computer, generating values for at least one of the state attributes based on the gathered information, and sending the generated values to the intermediary module (col. 6, lines 21-36, where Jacobsen teaches a soldier unit that gathers the received physiological data from the sensors and transmits it to the media unit in a remote location/medic unit);

under control of each SCM of the user characterization system, receiving values for at least one state attribute from the intermediary module and performing processing based on the received values (col. 11, lines 40-50 and col. 13, lines 39-45);

under control of the intermediary module of the user characterization system, facilitating exchange of values by, receiving the sent values for the state attributes from the SSMs (col. 11, lines 40-50, col. 12, lines 40-44, col. 13, lines 17-28);

automatically modeling values of the other state attributes based at least in part on the sent values of the state attributes by abstracting a transient physiological user condition derived from the sent values of the state attributes of a lower level of abstraction (col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45, Examiner notes that Applicant has provided no explicit definition further limiting the claim regarding a lower level of abstraction, but merely exemplifies the levels of abstraction as heart rate and EKG and location and speed physiological user conditions, see where Jacobsen discloses in the Abstract-

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heart rate values are abstracted and soldier positioning abstracted from the global positioning module, col. 7, lines 21-31); sending at least some of the received state values and at least some of the modeled other state attribute values to the SCMs (col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45);

and interacting with the thin client wearable computer the interacting comprising providing information about the current state of the remote user to the thin client wearable computer and receiving information about the current state of the remote user from the thin client wearable computer, the interacting being based at least in part on the modeled other state attribute values (col. 9, lines 11-19, col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45).

As per claim 67, Jacobsen further discloses wherein the thin client wearable computer includes an output device, and wherein the interacting with the thin client wearable computer includes sending information for presentation to the user on the output device (Figure 3, col. 9, lines 20-49 and col. 11, lines 40-50).

As per claim 71, Jacobsen, wherein the thin client wearable computer lacks resources accessible to the computer executing the user characterization system, and wherein the interacting with the thin client wearable computer includes receiving a request to access at least one of the resources on behalf of the thin client wearable computer and accessing those resources in response (col. 9, lines 15-20 and col. 10, lines 21-33).

As per claim 72, Jacobsen further discloses wherein the at least one resources include processing capabilities of the computer executing the user characterization system, wherein the

accessing of those resources includes using the processing capabilities on behalf of the thin client wearable computer, and including sending an indication of results to the thin client wearable computer (col. 9, lines 15-20 and col. 10, lines 21-33).

As per claim 74, Jacobsen further discloses wherein the at least one resources include a computer-readable storage medium of the computer executing the user characterization system, and wherein the accessing of those resources includes storing information received from the thin client wearable computer on the computer-readable storage medium (col. 7, lines 13-23 and col. 4, lines 9-20).

As per claim 75, Jacobsen further discloses wherein the computer executing the user characterization system has a sensor receiving information about the user of the remote thin client wearable computer, and wherein the gathering of the information about the current state of the remote user by at least one of the SSMs includes obtaining information from the sensor (col. 6, lines 45-57).

As per claim 77, Jacobsen further discloses wherein the gathering of the information about the current state of the user by at least one of the SSMs includes obtaining information from at least one sensor that is part of the thin client wearable computer (Figure 1 and col. 6, lines 45-57).

As per claim 78, Jacobsen further discloses wherein the performing of the processing based on the received values by at least one of the SCMs includes supplying information to at least one output device that is part of the thin client wearable computer (Figure 3 and col. 11, lines 40-50 and col. 13, lines 39-45).

As per claim 82, Jacobsen further discloses wherein at least some of the SSMs are available to supply values for additional state attributes of a current state other than for the user, and wherein the intermediary module additionally sends values for the additional state attributes to SCMs (col. 11, lines 29-39)

As per claim 174, Jacobsen teaches wherein: the state attributes comprise a geographic location and speed, generating values under control of each SSM comprises generating values for the state attributes of geographic location and speed, abstracting the transient physiological user condition derived in part from the sent values of the state attributes for the geographic location and the speed (col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45, Examiner notes that Applicant has provided no explicit definition further limiting the claim regarding a lower level of abstraction, but merely exemplifies the levels of abstraction as heart rate and EKG and location and speed physiological user conditions, see where Jacobsen discloses in the Abstract-heart rate values are abstracted and soldier positioning abstracted from the global positioning module, col. 7, lines 21-31), and interacting with the thin client wearable computer comprises wirelessly transmitting transient physiological user condition to the thin client wearable computer from the user characterization system. (col. 9, lines 11-19, col. 10, lines 38-44, col. 14, lines 50-60, col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10).

As per claim 175, Jacobsen teaches wherein the abstracting the transient physiological user condition comprises characterizing or inferring in part from the sent values of the state attributes which are based on physical activity of the user the user's current activity (col. 8, lines 8-16 and see col. 13, lines 38-45).

As per claim 181, Jacobsen teaches wherein the transient physiological user condition derived in part from the sent values of the state attributes based in part on ambient environmental information (Abstract, col. 8, lines 50-65 and col. 16, lines 9-22).

As per claims 184 and 185, Jacobsen teaches further comprising abstracting the transient physiological condition of exercising and of talking (col. 6, lines 25-29 and col. 2, lines 50 -55).

As per claim 186, Jacobsen teaches a system that communicates wirelessly with a mobile computer at a remote location to provide information about a current state at the remote location, the current state modeled with the multiple state attributes, the system comprising: a receiver to wirelessly receive sensor data from the mobile computer (col. 10, lines 54-col. 11, lines 1-14); a processor configured to execute computer-executable instructions for performing a process of: obtaining first values for at least one of the state attributes on the sensor data (col. 9, lines 41-49); and modeling a second value of a second state attribute based at least in part on the first values, the second values modeled by abstracting a condition derived from the first values, the first values being from a lower level of abstraction than the second value (col. 13, lines 17-46); and a transmitter for wirelessly transmitting information about the current state from the system to the remote computer, the information about the current state including the second value (col. 11, lines 50-61, col. 9, lines 7-20, and col. 13, lines 17-46).

As per claim 187, Jacobsen teaches wherein the current state is the current state of a remote user of the mobile computer (col. 9, lines 20-33).

As per claim 188, Jacobsen teaches wherein the remote computer is a thin client computer that is wearable by the remote user and has an output device for presenting the

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information about the current state of the remote user received from the system (col. 9, lines 20-33).

As per claim 189, Jacobsen teaches wherein the remote computer is a thin client computer that is wearable by the remote user and has an output device for presenting the information about the current state of the remote user received from the system (col. 9, lines 20-33).

As per claim 190, Jacobsen teaches receiving data about the environment of the remote user from the fixed sensors coupled to the first computer and from remote sensors operating at the remote location (col. 8, lines 45-64); obtaining first values for at least one of the state attributes based on the data received from the fixed and remote sensors (col. 9, lines 7-33); automatically modeling second values of other state attribute based at least in part on the first values, the second values modeled by abstracting a transient physiological user condition derived from the first value, the first value being from a lower level of abstraction than the second values; and transmitting information about the current state of the remote user from the system to the mobile computer, the information about the current state including at least one of the second values (col. 9, lines 7-33).

As per claim 191, Jacobsen teaches wherein abstracting the transient physiological user condition comprises characterizing from the first value of the state attributes the remote user's current activity, the first values used for characterizing the current activity being based on a physical activity of the remote user (col. 9, lines 7-33).

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

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November 7, 2009

/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444